IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

W.P.(C).No.6867 of 2007(P)

PETITIONER:-

R.KRISHNAMOORTHY, AGED 74 YEARS,
SON OF RAMAN, SUPREETH NIKETHAN,
KURICKAVU, C.6,AKG NAGAR, WEST YAKKARA,
PALAKKAD-1.

BY ADV. SRI.P.R.VENKATESH

RESPONDENTS:-

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1. SECRETARY TO GOVERNMENT,
   REVENUE DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
   PALAKKAD.

3. DEPUTY DIRECTOR OF RESURVEY,
   COLLECTORATE, PALAKKAD.

4. THE SUPERINTENDENT,
   RESURVEY-ADALATH, OTTAPALAM.

R1 TO R4 BY GOVERNMENT PLEADER SRI.C.M.SURESH BABU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.Padmanabhan Nair,J.

W.P.(C).No.6867 of 2007-P

Dated, this the 7th day of March, 2007

JUDGMENT

The petitioner had obtained some land under a partition effected in the year 1944. According to the petitioner, there was a Ceiling Case, which was subsequently dropped. It is averred that recently the property was acquired by the Land Acquisition Officer for a public purpose for KINFRA. It is averred that relying on the re-survey records, the Land Acquisition Officer had classified the land belonging to the petitioner as wet land (Nilam), though actually 1.638 hectares of land was garden land and only an area of 0.25 hectares was wet land. It is averred that in respect of the old survey No.768/1 and 772 also, there was no proper answer from the revenue department and hence the lands were wrongly classified. It is averred that on account of the wrong entry made in the land revenue records, the garden land acquired from the possession of the petitioner was classified as wet land only a meagre amount was given as compensation. According to the petitioner, he filed Exhibit P1 representation

before the Re-survey Adalat and another representation before the Deputy Director of Re-survey and yet another before the District Collector, Palakkad. It is averred that though a reply was given by the District Collector, Palakkad stating that since there were some anomalies found in the records and reports submitted by the Survey Superintendent the matter has been referred to the Survey Superintendent, Ottapalam and appropriate action will be taken, no further action was taken to correct the revenue records. Thereafter the Deputy Director of Re-survey issued a communication, Exhibit P5, in which it is stated that as the petitioner is no longer holding the land as the land had been acquired by the Special Tahsildar, KINFRA and now the land is treated as puramboke and in the possession of KINFRA, the petitioner's request cannot be entertained. Thereafter the petitioner made several representations to various authorities and finally by Exhibit P10, the Principal Secretary to Revenue Department issued a communication stating that there is no change of situation as stated in the order Exhibit P5 and therefore his representation cannot be entertained. Hence the writ petition to quash Exhibits P5 and P10.

2. It is seen that in Exhibits P5 and P10 the respondents had informed the petitioner that since the land was acquired after payment of compensation and notified as Government land, it is not possible to consider the request made by the petitioner. It is also stated that at present the petitioner has no right or possession over the same and it is classified as government land. Neither the Deputy Director of Re-survey, Palakkad nor the Principal Secretary to Revenue Department understood the grievance of the petitioner. The petitioner do not want the land back. He is not trying to get his title established. His only grievance is that in case the land is properly classified, he will get some more amount as compensation. The fact that the land was acquired and possession was taken are admitted by the petitioner. His only complaint is that because of the wrong classification of the land, he was not given adequate compensation. It is not disputed that the land value payable to wet land will be lesser when compared to garden land. If the request made by the petitioner is genuine, at least a major portion of the land will have to be classified to be garden land and in that case he will get a large amount as compensation. It is

evidently clear that the authorities who passed Exhibits P5 and P10 had not applied their mind and acted in a mechanical manner. So, those orders are unsustainable. But, considering the fact that the matter is now pending before the Land Acquisition Court, I am of the view that this writ petition can be disposed of giving liberty to the petitioner to take steps to secure the presence of the competent officer and establish the fact that the tenure of the land entered in the land records is not correct and the same is to be re-classified. If the petitioner makes such a request, the Land Acquisition Court shall give an opportunity to the petitioner to establish that fact by examining officers or by calling upon the competent authority to produce the necessary documents.

In the result, the writ petition is disposed of in the manner as indicated above.

K.Padmanabhan Nair
Judge

vku/-